

**MINUTES OF THE  
CAPITAL PROJECTS AND BOND  
OVERSIGHT COMMITTEE  
May 18, 1999**

The Capital Projects and Bond Oversight Committee met on Tuesday, May 18, 1999, at 10:00 a.m., at the Northern Kentucky Convention Center in Covington, Kentucky.

Present were:

Members: Representative Jodie Haydon, Chairman; Senator Bob Leeper, Vice Chairman; and Representatives Robert Damron and Paul Marcotte.

Guests: Representative Jim Callahan, House Majority Caucus Chair; Representative John Draud; Senator Dick Roeding; Carolyn Haydon; Dick Murgatroyd and Scott Kimmich, Kenton County Fiscal Court; Gary Moore, Boone County Fiscal Court; Bill Hintze, Mark Coleman, Allen Holt, and Joe Lancaster, Governor's Office for Policy and Management; Pat Perry, Department for Facilities Management; Cicely Jaracz Lambert, Leesa Hayden, Nick Schwendeman, and Debra Wash, Administrative Office of the Courts; Charlie Wheeler and Don Roesch, Northern Kentucky Convention Center Corporation; and John Gillig and Doug Teague, LRC.

LRC Staff: Mary Lynn Collins, Pat Ingram, Jack Affeldt, and Shawn Bowen.

Press: Jack Hicks, *Kentucky Post*.

Chairman Haydon began the meeting with introductory remarks, and said he was impressed with the recent community development efforts in Northern Kentucky. He then asked Representative Marcotte to introduce Kenton County Judge Executive Dick Murgatroyd; Boone County Judge Executive Gary Moore; Kenton County Deputy Judge Executive Scott Kimmich; Senator Dick Roeding; and Representative Jim Callahan. He said other Northern Kentucky legislative members were attending meetings in Frankfort and could not attend today's Committee meeting.

Chairman Haydon then called on Mr. Bill Hintze, Deputy State Budget Director, Governor's Office for Policy and Management (GOPM), to discuss two projects submitted by the Finance and Administration Cabinet.

Mr. Hintze reported two allocations from the Emergency Repair, Maintenance, and Replacement Account. The first allocation was for the Kentucky Community and Technical College System (KCTCS) Somerset Community College Hangar Door

Replacement project. Emergency funds in the amount of \$120,000 will be used to replace a severely dilapidated hangar door that serves the aircraft maintenance program at the college. Mr. Hintze said after discussions with KCTCS staff and carefully evaluating the condition of the door, Facilities Management staff and GOPM concluded that the door is a safety hazard and KCTCS did not have the money to replace the door.

Senator Leeper asked if KCTCS has been able to access the Deferred Maintenance Pool for Postsecondary Education, authorized by the 1998 General Assembly. Mr. Hintze said KCTCS is eligible for a portion of the Deferred Maintenance Pool and has, along with the individual universities, identified for the Council on Postsecondary Education a list of projects it plans to fund from its share of the Deferred Maintenance Pool. (The Pool requires a 50/50 match.)

Mr. Hintze then discussed an allocation of \$300,000 from the emergency account for repairs to replace steam and condensate lines between manholes #6 and #7 on the campus of Western Kentucky University (WKU). The University identified this need after it had already allocated its share of deferred maintenance funds appropriated by the 1998 General Assembly for postsecondary education facilities. Mr. Hintze said Facilities Management staff investigated the situation and concurred with the University that WKU had an emergency need that had to be addressed in time for the fall semester.

Chairman Haydon asked if there will be a need for further repairs to the steam and condensate lines at WKU. Mr. Hintze said the portion of the lines being repaired is the most deteriorated piece, and they cannot rule out that more work will have to be done. He said hopefully this problem will be addressed through a regular line-item appropriation in a regular session.

Chairman Haydon said allocations from the emergency account must be reported to the Committee within 30 days, but no further action is required.

Chairman Haydon said the Committee will be touring the new Kenton County Judicial Center later in the day, and he called on Mr. Nick Schwendeman, General Manager for Facilities, Administrative Office of the Courts (AOC), to discuss the state's court construction program and provide a status report on the newly established and funded Court Facility Use Allowance Contingency Fund for court projects.

Mr. Schwendeman said as court facilities for both district and circuit courts continue to require expansion, renovation, and interior and exterior maintenance to keep up with growth of the court system, it is the responsibility of the Facilities Unit of AOC to coordinate these efforts. Since 1996, the General Assembly has required new and renovated courthouse facilities to comply with the standards of the National Center for

State Courts; the Facilities Unit of AOC must also approve project plans and oversee construction to ensure compliance with the guidelines.

Mr. Schwendeman said because of increased emphasis on security, three circulation patterns have been established in new and renovated facilities; these patterns include restricted access circulation for judges and staff; the secure circulation of those in custody being transported to and from the courtroom; and the circulation of the general public attending proceedings.

Mr. Schwendeman explained the process for building court facilities, and noted it is unlike the process for Executive Branch facilities; it is a partnership between state and local units of government. The local government, usually a county government, acts as the developer of the new or renovated court facility, selects the architect and the financial agent, bids the construction, and arranges financing.

In return for providing court space, AOC pays local government a use allowance based on the court's proportionate share of the project's principal and interest not to exceed 8% of the capital cost. If there is no debt, AOC's share is reduced to 4% annually of the capital cost. Additionally, AOC pays operating expenses based on an occupancy ratio of usable space occupied by the courts to the total usable space in the facility. Operating expenses are audited at the end of the fiscal year, and AOC makes an adjustment the following year for any over or under payment.

Mr. Schwendeman said during the process a number of problems have arisen, including 1) administrative changes in a local government, and the new administration disagrees with the proposed project; 2) perceptions that the funding is a grant instead of a pledge to help retire AOC's portion of the debt the county incurs; 3) project scope changes by the county or AOC; 4) poorly conceived projects when the architect hired by the county did not follow the National Standards or did not take into account population changes, case loads, or other activities; 5) some counties may not want to surrender use and operating payments on its old facility; 6) inclusion in the design of space for other state and county agencies when these agencies lack funding to pay their proportionate share; 7) a change in the method of financing which can affect the overall cost of the project; 8) the desire of some counties to build court facilities with additional space for future growth, expecting AOC to pay for it, but AOC payments are based on occupancy; and 9) items that were not a part of the original project scope, but later deemed necessary. Mr. Schwendeman also discussed situations in which a project is proposed using a general contractor, but the county decides to use a construction manager instead. He said while they have seen no appreciable savings utilizing this method, it is difficult to determine the impact.

Mr. Schwendeman said although AOC uses its best efforts to monitor costs and to see that its share of the cost does not exceed the authorized use allowance, some overruns are unavoidable and justifiable. The 1998 General Assembly authorized a Court Facility Use Allowance Contingency Fund to provide for cost overruns not to exceed 15% of the maximum use allowance established by the General Assembly. Any overrun must be approved by the Court Facilities Standards Committee and reported to the Capital Projects and Bond Oversight Committee.

Mr. Schwendeman then introduced the new director of AOC, Ms. Cicely Jaracz Lambert.

Representative Marcotte said he recently attended a meeting with county judge executives from the area, and said he heard concerns that court facility construction costs are underestimated. He asked how construction or renovation costs are estimated. Mr. Schwendeman said the figures submitted by AOC for the 1998 General Assembly Session were provided by the architects hired by the counties. He said project costs are scrutinized by the AOC staff architect and by the Facilities Unit staff, and in some cases, the estimates are raised or lowered. He said they do include an inflation factor and while they try to anticipate the market, under the current bidding climate, this is hard to do.

Mr. Schwendeman said the Facilities Unit of AOC works closely with the Court Facilities Standards Committee. (This Committee is established by statute and its membership includes the Co-Chairs of the Interim Joint Committee on Judiciary.) Meetings are held quarterly to review and approve projects, and approval comes only after projects have passed the review of the National Center for State Courts and the AOC Facilities Unit, and construction bids have come in at or below budget. While the Committee may approve a 15% increase in the use allowance, this is not done until the project has been bid and value-engineered and other measures are used to further reduce costs.

Mr. Schwendeman said he has discussed with some counties the possibility of outsourcing the management responsibility for their courthouse facilities, especially since there is more technology in buildings than in the past. As opposed to a court facility being managed by county personnel, it would be managed by a facilities management company. He said Kenton County liked the concept and consequently, issued a Request for Proposal (RFP). The county received eight responses; six were late and were thrown out, and the seventh respondent withdrew. The county is now finalizing a contract with the remaining respondent (Meridian Company). Kenton County's contract with the facilities management company is based on a fixed fee, and includes all services except security, utilities, and insurance. He said if this program works, AOC would like to consider the possibility of utilizing facilities management companies for facilities in the larger counties.

Mr. Schwendeman next discussed the design build method of construction, which was used for both the Jefferson County and the Kenton County court projects. In these cases, the county enters into a contract with a design build team, an architectural firm, and a construction firm, to deliver a project for use by AOC. He said the method poses a problem when the county and the design build team negotiate a contract and AOC is not at the table to express their facility needs. For example, although the design build team has guidelines to follow, the team does not necessarily understand the infrastructure for the court's security and video technology, which normally requires a change order to correct the problem. He said the number of change orders could be reduced if AOC was involved in the negotiations.

Mr. Schwendeman then reported on recent transfers from the Court Facility Use Allowance Contingency Fund to cover cost overruns on court facility projects in Butler County, Edmonson County, Knox County, and Woodford County. The cost overruns represent an annual increase of \$73,000 in the authorized use allowances.

Representative Damron said the contingency fund for the use allowance was a provision in the 1998-2000 budget, and in order to continue its use, it will have to be reestablished in the 2000-2002 budget, or specific legislation will have to be passed establishing a permanent contingency fund. He asked if AOC would prefer the General Assembly to pass specific legislation permanently establishing a contingency fund, and Mr. Schwendeman they would.

Representative Damron said he hopes that through the budget process, the remaining funds in the contingency account can be carried over to a new contingency fund established by statute. He said a bill draft request is in place, and if AOC has any ideas as to how they would like the contingency fund structured, to please let Committee staff know.

Representative Damron said most of the disagreement between the counties and AOC occurs when determining each agency's proportionate share of the bill for occupancy. He asked if AOC has ever considered the idea of regional court facilities which would be 100% funded by AOC. Mr. Schwendeman said AOC is not encouraging regional court facilities at this point; they are constructing facilities on a traditional county by county basis.

Representative Damron said there are 35-40 new requests for court facilities, and from an efficiency standpoint, AOC might consider encouraging counties to develop a collaborative method to build one central courthouse. Mr. Schwendeman said this issue has not been discussed within his division. Ms. Lambert added that she thought constitutional changes would need to be required before this could happen.

Representative Damron said this is something AOC may want to consider, because many of the county courthouses are in dire shape. Mr. Schwendeman said they are willing to help the counties build new courthouses, but sometimes it is difficult for a county to come up with its proportionate share of the cost. Representative Damron said in many cases a county cannot come up with its share because it does not have the bonding capacity, and it is difficult to sell the idea to constituents when there are other needs in the community.

Senator Roeding thanked Representative Damron for his efforts regarding the Contingency Fund. Representative Damron said they need to make sure there is an ongoing contingency fund so projects with cost overruns within 15% do not have to wait on the General Assembly to meet and approve such overruns.

Senator Roeding said the Kenton County Judicial Center, both Phase I and Phase II, will be ready for occupancy in June 1999, but the General Assembly has not yet funded the use allowance for Phase II. However, the 1998 Judicial Branch Budget Bill directed that for any authorized facility project occupied sooner than anticipated, the use allowance payments are to be made from the Court Facility Use Allowance Contingency Fund. Senator Roeding urged AOC to use the Contingency Fund for the Phase II use allowance since the authorized facility will be completed and ready for occupancy next month.

Representative Marcotte asked when AOC will begin making use allowance payments to Kenton County for the judicial center. Mr. Schwendeman said the use allowances for Kenton County, for both phases, total \$1,336,000, and AOC will begin making those payments when the courts occupy the facility.

Chairman Haydon said he saw a need for further discussion regarding this issue, and he hoped between the Committee and AOC, communications can take place because there are many questions that need to be answered as soon as possible.

Senator Roeding thanked the Committee members for visiting Northern Kentucky; he said the work of the Capital Projects and Bond Oversight Committee is very important and the Committee's decisions have a statewide impact.

With a quorum then being present at the meeting, Chairman Haydon asked the secretary to call the roll. Senator Leeper made a motion to approve the minutes of the April 20, 1999 meeting as submitted. The motion was seconded by Representative Damron and passed by voice vote.

Representative Damron made a motion to approve the various Kentucky Infrastructure Authority (KIA) projects. The motion was seconded by Senator Leeper and passed by voice vote.

KIA loans approved were as follows:

**(1) A KIA Fund B loan (Infrastructure Revolving Loan Fund) in the amount of \$795,600 for the city of Prestonsburg, Honey Branch Industrial Site.** The proceeds will be used to construct waterlines from the city to supply water to the new United States maximum security penitentiary being constructed at the Honey Branch Industrial Site. The terms of the loan are 1.0% for 20 years.

**(2) A KIA Fund E loan (Solid Waste Revolving Loan Program) in the amount of \$750,000 to the Hart County Solid Waste Management District.** Funds from the loan will be used to purchase equipment and implement a solid waste collection service. The terms of the loan are 2.0% for 7 years.

**(3) A KIA Fund E loan in the amount of \$367,183 to the city of London, Laurel County.** Funds from the loan will be used to purchase items necessary to implement and maintain a Herbie Curbie collection system. The terms of the loan are 2.0% for 5 years.

**(4) A KIA Fund E loan in the amount of \$380,326 to the city of Corbin, Whitley County.** Funds from the loan will be used to build a transfer station, purchase a roll off truck, garbage packer truck, and two transfer station boxes. The terms of the loan are 2.0% for 5 years.

**(5) A KIA Fund E loan in the amount of \$170,500 to the city of Pikeville, Pike County.** Funds from the loan will be used to purchase a new six-yard satellite collection truck and a large roll off truck to replace old, unreliable equipment. The terms of the loan are 2.0% for 5 years.

**(6) A KIA Fund A (Federally-Assisted Wastewater Revolving Loan Fund) loan amendment in the amount of \$92,920 for the Greenup County Environmental Commission.** The additional funds will be used to replace the existing lift station at the construction site. The new loan amount is \$3,428,009, and the terms of the loan are 3.3% for 20 years.

Representative Damron then made a motion to approve the bond issue for Kentucky Economic Development Finance Authority Revenue Refunding and Improvement Bonds, Series 1999, AHF/Kentucky-Iowa, Inc. The motion was seconded by Senator Leeper and passed by voice vote. Proceeds from this conduit bond issue

(\$13,175,100) will be used to refund and redeem bonds issued by the Lexington Fayette Urban County Government for a nursing home and by Jefferson County for a health care center. Proceeds will also be used to build and equip additional health care facilities at the Lexington and Louisville sites and to provide working capital for the borrower. The length of term is 30 years and the interest rate is anticipated to be 6.82%.

Chairman Haydon said there were seven new SFCC bond issues on the agenda, none of which required a tax increase: Corbin Ind. (Knox/Whitley Cos.) - \$250,000 for primary school improvements; Covington Ind. (Kenton Co.) - \$3,685,000 for construction and renovation of an elementary school; Dayton Ind. (Campbell Co.) - \$1,865,000 for elementary school improvements; Hart Co. - \$5,555,000 for additions and renovations at two elementary schools; Jefferson Co. - \$17,765,000 for renovations to various district schools; Shelby Co. - \$15,410,000 for additions and renovations at two middle schools; and Walton-Verona Ind. (Boone Co.) - \$465,000 for a high school window replacement project and an elementary school HVAC project.

Representative Marcotte made a motion to approve the school bond issues with SFCC participation in debt service. The motion was seconded by Senator Leeper and passed by voice vote. Representative Damron abstained from the vote, citing a potential conflict of interest since he was serving as financial advisor on at least one of those issues.

The remaining agenda items under New Business did not require action by the Committee. These items include:

(1) Three University of Kentucky (UK ) project reports. The first project involved a plan by the University to utilize the GE Capital contract to purchase two magnetic resonance imaging systems approved by the 1998 General Assembly. The remaining two projects involved plans to consolidate two projects at the UK Hospital: the Nursing Unit Modification VI project and the Nursing Unit Modification VIII project will be consolidated into one project and the Outpatient Diagnostic & Treatment Center project and the Primary Care Center project will be consolidated into another project.

(2) A lease modification report for the Council on Postsecondary Education to accommodate staff of the Commonwealth Virtual University and the Commonwealth Virtual Library. The Council plans to increase its office space at Capital Complex East in Frankfort by 1,381 square feet. The annual cost of the lease will increase by \$10,979. In order to gain the space, the Council agreed to pay relocation expenses for the Kentucky Long Term Policy Research Center, which previously occupied the space. The Council also plans to eventually lease additional space in the Capital Complex East currently occupied by the Kentucky Information Resources Management Commission and the Board of Pharmacy.



(3) A report of 15 state agency lease modifications for January through March 1999.

(4) A follow-up report for Murray State University Housing and Dining System Revenue Bonds, 1999 Series N.

(5) A follow-up report for KIA Infrastructure Revolving Fund Program Revenue Refunding Bonds, 1999 Series M.

(6) A follow-up report for KIA Governmental Agencies Program Revenue and Revenue Refunding Bonds, 1999 Series J.

(7) Four school district bond issues with 100% local debt service: Campbellsville Ind. (Kenton Co.) - \$515,000 to refund 1989 bonds; Jefferson Co. - \$14,000,000 to fund Tax and Revenue Anticipation Notes and \$41,100,000 to refund and restructure portions of 1992B bonds; and Metcalfe Co. - \$1,056,000 for energy conservation improvements at various district schools.

Mr. Charlie Wheeler, Executive Director, Northern Kentucky Convention Center Corporation, then briefly discussed the new Convention Center. He identified the portions of the Convention Center construction project that were funded from the \$1.5 million allocation the Committee approved from the Emergency Repair, Maintenance, and Replacement Account in April of 1998. Items purchased with those funds include: moveable partitions; electronic and security equipment; lighting dimmers in the meeting rooms; leased property upgrade; fireproofing of a steel structure; drywall bulkheads; and an additional elevator shaft steel. He said the Convention Center will use the remainder of the funds to purchase an exterior marquee for the front of the building. The marquee, estimated to cost \$80,000, will be bid by the end of June and should be installed by fall of this year.

Mr. Wheeler then discussed the economic impact of the Convention Center and said since opening in October 1998, there have been 58,000 visitors and 95 events held at the Convention Center. He said the new technology in the building recently enabled them to host a conference for Macola that required 500 computers networked together with internet access.

Mr. Don Roesch, Director of Sales, Northern Kentucky Convention Bureau, then briefly discussed the techniques used to advertise and market the use Convention Center to different businesses.

Ms. Pat Perry, Project Manager with the state Department for Facilities Management, reported on the final construction schedule and funding for the Northern Kentucky Convention Center. She summarized the balances in each of the project accounts. Of the \$30,500,000 allocated for the project, currently a total balance of \$252,456 remains in the projects' various accounts. However, it was noted some pieces of equipment and furnishings are on order, but have not been encumbered.

Following a tour of the Northern Kentucky Convention Center, the Kenton County Judicial Center, the area waterfront, and the new aquarium, the Committee meeting adjourned at approximately 2:00 p.m.